

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

FILED

Josh L. Anderson,  
plaintiff,

'06 MAY 30 10:13

V.

CIVIL ACTION NO. 04-135 Erie

Larry E. Kopko, et al.,  
defendants.

PLAINTIFF'S PRE-TRIAL STATEMENT

**I. STATEMENT OF FACTS**

The plaintiff in this action, Josh L. Anderson, was an inmate of the Warren County Prison on February 4, 2004, and had been since June 6, 2001, with the exclusion of approximately five (5) months from May 2003 - October 2003.

The defendant in this action, Katie L. Smith, then Katie L. Avenali is a Deputy Sheriff/Correctional Officer for Warren County, and, on February 4, 2004, was assigned to the Warren County Prison as a Corrections Officer.

On February 4, 2004, plaintiff was exposed to force that was unnecessary, abusive and dangerous when the defendant kicked and punched plaintiff in the face before repeatedly beating his head off the floor while plaintiff was held down by two (2) other officers.

Prior to the events of February 4, 2004, plaintiff and defendant had experienced a large number of conflicts mostly due to the defendants attitude and her unwillingness to stop starring at plaintiff. The conflicts described go back approximately two (2) years and happened on an almost daily routine.

**II. DAMAGES CLAIMED**

1. Compensatory Damages: Amount to be determined by the Court or Jury.
2. Punitive Damages: Amount to be determined by the Court or Jury.
3. Plaintiff's Cost: Total \$487.54

\$88.62 Books.  
\$263.10 Commissary  
\$103.30 Copies  
\$32.52 Postage

**III. WITNESSES:**

a) Blaine Molle  
SCI Houtzdale  
Inmate# FX4037  
P.O. Box 1000  
Houtzdale, PA 16698-1000

PURPOSE: Will testify as to witnessing the defendant kick and punch plaintiff in the face on February 4, 2004, and any and all other matters relevant to the issues of said lawsuit.

b) Joshua Smith  
SCI Somerset  
Inmate# GA3625  
1590 Walters Rd.  
Somerset, PA 15510-0001

PURPOSE: Will testify as to witnessing the defendant kick and punch plaintiff in the face on February 4, 2004, and any and all other matters relevant to the issues of said lawsuit.

c) Casey Dayhuff

Address unknown will supplement as soon as possible.

PURPOSE: Will testify as to witnessing the defendant kick and punch plaintiff in the face on February 4, 2004, and any and all other matters relevant to the issues of said lawsuit.

**IV. WITNESSES PLAINTIFF MAY CALL:**

d) Shelley Kreckel  
336 E. Main St.  
Youngsville, PA 16371

PURPOSE: Will testify as to calling the Warren County Prison prior to February 4, 2004, and speaking with Captain Randolph Ickert, and the jail Counselor, Laura McDunn about the continued conflicts between plaintiff and defendant. Also, will testify as to speaking with the defendant about why there are so many conflicts and why she acts the way she does toward plaintiff, and any and all other matters relevant to the issues of said lawsuit.

e) Kevin Kreckel  
336 E. Main St.  
Youngsville, PA 16371

PURPOSE: Will testify as to calling the Warren County Prison prior to February 4, 2004, and speaking with Captain Randolph Ickert, as well as other Officers and the jail Counselor, Laura McDunn about the continued conflicts between plaintiff and defendant, and any and all other matters relevant to the issues of said lawsuit.

f) Josh Anderson  
Inmate# FW6915  
SCI Coal Township  
1 Kelley Drive  
Coal Township, PA 17866

PURPOSE: Party testimony regarding the force used by the defendant and the injuries sustained as a result, and any and all other matters relevant to the issues of said lawsuit.

**V. EXHIBITS**

- 1) Warren County Sheriff's Office/Jail desk log for the day of Wednesday, February 4, 2004, 0700-1500 shift.
- 2) Declaration made by Blain Molle as to the events of February 4, 2004, as he observed them.

- 3) Declaration made by Joshua Smith as to the events of February 4, 2004, as he observed them.
- 4) Grievance filed by plaintiff against defendant regarding an incident on February 3, 2004.
- 5) Grievance filed by plaintiff against defendant for the incident on February 4, 2004.
- 6) Grievance filed by plaintiff against defendant for an incident on December 29, 2003.
- 7) Grievance filed by plaintiff against Capt. Ickert, dated November 17, 2004.
- 8) Grievance filed by plaintiff against Randy Ickert, dated November 17, 2004.
- 9) Internal Narrative (report) written by Katie L. Avenali, dated May 9, 2003.
- 10) Hand drawing of A-Block (MAX).

**VI. EXHIBITS PLAINTIFF MAY USE:**

- 11) Inmate request written by plaintiff and addressed to Dep. Corrections Supervisor, dated October 3, 2002.
- 12) Inmate request written by plaintiff and addressed to Dep. Corrections Supervisor, dated October 24, 2002.
- 13) Inmate Misconduct Report for plaintiff, written by defendant dated August 30, 2002.

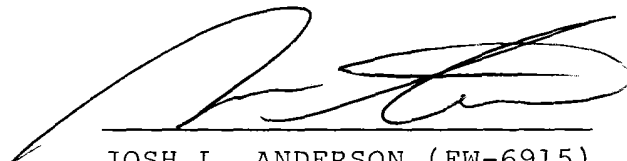
- 14) Block Safety/Security Check Log, A-Block (MAX) dated February 3-6, 2004.
- 15) Desk log for A-Block (MAX) dated December 29-31, 2003.
- 16) Desk log for A-Block (MAX) dated December 29, 2003.
- 17) Desk log for A-Block (MAX) dated February 2-4, 2004.
- 18) Desk log for A-Block (MAX) dated February 4-6, 2004.
- 19) Isolation log for plaintiff dated February 5, 2004.
- 20) Grievance filed by plaintiff against defendant dated August 30, 2005.
- 21) Internal E-Mail, sent to Randy Ickert, by defendant dated August 30, 2005.
- 22) Internal E-Mail, sent to defendant by Larry Kopko, dated August 25, 2005.
- 23) Isolation log for plaintiff dated February 4, 2004.
- 24) Internal Narrative (report) written by defendant dated October 27, 2003.
- 25) Internal E-Mail sent to Robert Burns, Randy Ickert and the defendant dated October 24, 2002.
- 26) Letter written by plaintiff and addressed to the defendant, dated March 4, 2004.
- 27) Letter written by plaintiff and addressed to Sheriff Larry Kopko, dated February 26, 2004.

- 28) Letter written by Sheriff Larry Kopko, and addressed to plaintiff, dated February 26, 2004.
- 29) Letter written by Sheriff Larry Kopko, and addressed to plaintiff, dated November 6, 2003.
- 30) Cartoon drawing addressed to defendant.

**VII. UNUSUAL LEGAL ISSUES:**

N O N E

Respectfully Submitted,

A handwritten signature in black ink, appearing to read 'Josh L. Anderson', is written over a horizontal line.

JOSH L. ANDERSON (FW-6915)  
1 Kelley Drive  
Coal Township, PA 17866

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Josh L. Anderson,  
plaintiff,

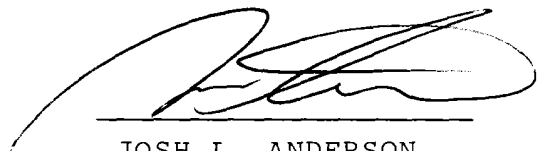
v.

CIVIL ACTION NO. 04-135 Erie

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**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that on the 24th. day of May, 2006, a copy of the within document was sent to all counsel and parties of record by way of First Class U.S. Mail.

A handwritten signature in black ink, appearing to read 'Josh L. Anderson', is written over a horizontal line.

JOSH L. ANDERSON